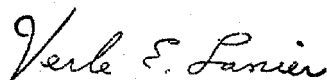


**For:** FSA Employees

**Guidance About Releasing Privacy Act (PA) Records**

**Approved by:** Acting Administrator



**1 Overview**

**A Background**

Based on questions and comments received from field offices, FSA has determined the need to provide further guidance to FSA employees about releasing PA records to individuals who make a PA request.

**B Purpose**

This notice:

- informs FSA employees that FSA will not provide free copies of records from FSA's system of records to producers under PA
- provides guidance about:
  - withholding Office of General Counsel (OGC) opinions
  - consent needed from the requester to release PA records.

**C National Office Freedom of Information Act (FOIA)/PA Contact**

If questions about this notice or FOIA/PA issues contact Diane Flores Korwin, PAS, at 202-720-5534.

**D State Office Action**

State Offices shall immediately distribute this notice to Service Centers.

Disposal Date	Distribution
May 1, 2004	All FSA Employees; State Offices relay to county Offices and Service Centers

## **2 Releasing Information**

### **A Who Can Request Information Under PA**

PA requests can only be made by U.S. citizens or aliens lawfully admitted for permanent U.S. residence who are seeking information about themselves.

Under PA, an individual has right of access to his or her records if information from these records is retrieved by his or her name or some identifying number, symbol, or other personal identifier.

A PA request is a request by an individual for his or her own records contained in one of our PA systems of records. (e.g. Farm Records File or the Applicant Borrower File) See 3-INFO, Exhibit 4.

### **B OGC Documents**

Any OGC document in a PA record should be reviewed to see if it should be withheld under 5 U.S.C. 552a(d)(5) of PA or 5 U.S.C. 552(b)(5) of FOIA because the information may be compiled in reasonable anticipation of civil action or proceeding and is protected under attorney/client, or other, privilege.

### **C Consent to Release Records**

The following shall be provided by the requester as consent for release of PA records:

- full name
- current address
- date of birth
- Social Security number
- a consent letter, signed and dated by the requester, that includes the following language:

“I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5000.”

## 2 Releasing Information (Continued)

### D Consent to Third Party

A consent letter from a requester who is authorizing information relating to himself or herself to be released to another person shall include the following additional language:

“Further, pursuant to 5 U.S.C. 552a(b), I authorize the U.S. Department of Agriculture to release any and all information relating to me to:\_\_\_\_\_.”

The requester may fax the letter to the office, however, the original signed consent letter must be received before records are disclosed in response to the request.

### E Fees for PA Requests

According to 7 CFR 1.120:

"Any agency which provides copies of records pursuant to a request under this subpart may charge fees for the **direct costs of producing such copies** in accordance with established FOIA fees. No agency, however, shall charge any fee for searches necessary to locate records. Nor shall an agency charge any fees for copies or searches, when the requester sought to make a personal inspection but was provided copies instead at the discretion of the agency."

FSA will charge a fee for providing copies of records provided in response to a PA request. According to 7 CFR Part 1, Subpart A, Appendix A, Section 4, the fee will be:

- \$ .20 per page 8 ½" by 14" or smaller per individual side of the sheet
- \$ .50 per linear foot of the longest side of the copy for pages larger than 8 ½" by 14".

Notwithstanding the foregoing, FSA will not charge:

- for the first 100 pages of duplicated records (8 ½" by 14" or smaller size paper) except for requests seeking records for a commercial use
- fees equal to \$25 or less.